

106TH CONGRESS  
2D SESSION

# H. R. 4455

To require providers of electronic mailboxes to provide forwarding addresses.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 15, 2000

Ms. SCHAKOWSKY introduced the following bill; which was referred to the  
Committee on Commerce

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## A BILL

To require providers of electronic mailboxes to provide  
forwarding addresses.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Email Address For-  
5       ward Act”.

6       **SEC. 2. UNFAIR COMPETITION IN ELECTRONIC MAIL.**

7       (a) RULES REQUIRED.—

8               (1) IN GENERAL.—The Commission shall pre-  
9       scribe rules in accordance with this Act to prevent  
10      anticompetitive practices in the provision of elec-  
11      tronic mail services by requiring any person who

1 provides an electronic mailbox for commercial pur-  
2 poses to any subscriber to forward electronic mail to  
3 that subscriber, or to provide a forwarding electronic  
4 mail address for that subscriber, for 6 months after  
5 the subscription to such mailbox is terminated. Such  
6 rules shall permit a subscriber to decline to receive  
7 forwarding or providing a forwarding address for  
8 such electronic mail.

9 (2) EXEMPTIONS.—The regulations prescribed  
10 by the Commission pursuant to paragraph (1) shall  
11 exempt from the requirements of such regulations  
12 electronic mail services provided by an employer or  
13 principal to an employee or agent for the perform-  
14 ance of functions on behalf of the employer or prin-  
15 cipal.

16 (b) RULEMAKING.—The Commission shall prescribe  
17 the rules under subsection (a) within 270 days after the  
18 date of enactment of this Act. Such rules shall be pre-  
19 scribed in accordance with section 553 of title 5, United  
20 States Code.

21 (c) ENFORCEMENT.—Any violation of any rule pre-  
22 scribed under subsection (a) shall be treated as a violation  
23 of a rule respecting unfair or deceptive acts or practices  
24 under section 5 of the Federal Trade Commission Act (15  
25 U.S.C. 45). Notwithstanding section 5(a)(2) of such Act

1 (15 U.S.C. 45(a)(2)), communications common carriers  
2 shall be subject to the jurisdiction of the Commission for  
3 purposes of this title.

4 **SEC. 3. ACTIONS BY STATES.**

5 (a) IN GENERAL.—Whenever an attorney general of  
6 any State has reason to believe that the interests of the  
7 residents of that State have been or are being threatened  
8 or adversely affected because any person has engaged or  
9 is engaging in a pattern or practice which violates any rule  
10 of the Commission under section 2(a), the State may bring  
11 a civil action on behalf of its residents in an appropriate  
12 district court of the United States to enjoin such pattern  
13 or practice, to enforce compliance with such rule of the  
14 Commission, to obtain damages on behalf of their resi-  
15 dents, or to obtain such further and other relief as the  
16 court may deem appropriate.

17 (b) NOTICE.—The State shall serve prior written no-  
18 tice of any civil action under subsection (a) upon the Com-  
19 mission and provide the Commission with a copy of its  
20 complaint, except that if it is not feasible for the State  
21 to provide such prior notice, the State shall serve such  
22 notice immediately upon instituting such action. Upon re-  
23 ceiving a notice respecting a civil action, the Commission  
24 shall have the right (1) to intervene in such action, (2)

1 upon so intervening, to be heard on all matters arising  
2 therein, and (3) to file petitions for appeal.

3 (c) VENUE.—Any civil action brought under this sec-  
4 tion in a district court of the United States may be  
5 brought in the district wherein the defendant is found or  
6 is an inhabitant or transacts business or wherein the viola-  
7 tion occurred or is occurring, and process in such cases  
8 may be served in any district in which the defendant is  
9 an inhabitant or wherever the defendant may be found.

10 (d) INVESTIGATORY POWERS.—For purposes of  
11 bringing any civil action under this section, nothing in this  
12 Act shall prevent the attorney general from exercising the  
13 powers conferred on the attorney general by the laws of  
14 such State to conduct investigations or to administer oaths  
15 or affirmations or to compel the attendance of witnesses  
16 or the production of documentary and other evidence.

17 (e) EFFECT ON STATE COURT PROCEEDINGS.—  
18 Nothing contained in this section shall prohibit an author-  
19 ized State official from proceeding in State court on the  
20 basis of an alleged violation of any general civil or criminal  
21 antifraud statute of such State.

22 (f) LIMITATION.—Whenever the Commission has in-  
23 stituted a civil action for violation of any rule or regulation  
24 under this Act, no State may, during the pendency of such  
25 action instituted by the Commission, subsequently insti-

1 tute a civil action against any defendant named in the  
2 Commission's complaint for violation of any rule as alleged  
3 in the Commission's complaint.

4 (g) ACTIONS BY OTHER STATE OFFICIALS.—

5 (1) Nothing contained in this section shall pro-  
6 hibit an authorized State official from proceeding in  
7 State court on the basis of an alleged violation of  
8 any general civil or criminal statute of such State.

9 (2) In addition to actions brought by an attor-  
10 ney general of a State under subsection (a), such an  
11 action may be brought by officers of such State who  
12 are authorized by the State to bring actions in such  
13 State for protection of consumers and who are des-  
14 ignated by the Commission to bring an action under  
15 subsection (a) against persons that the Commission  
16 has determined have or are engaged in a pattern or  
17 practice which violates a rule of the Commission  
18 under section 2(a).

19 **SEC. 4. ADMINISTRATION AND APPLICABILITY OF TITLE.**

20 (a) IN GENERAL.—Except as otherwise provided in  
21 section 3, this title shall be enforced by the Commission  
22 under the Federal Trade Commission Act (15 U.S.C. 41  
23 et seq.). Consequently, no activity which is outside the ju-  
24 risdiction of that Act shall be affected by this Act, except  
25 for purposes of this title.

1       (b) ACTIONS BY THE COMMISSION.—The Commis-  
2 sion shall prevent any person from violating a rule of the  
3 Commission under section 2 in the same manner, by the  
4 same means, and with the same jurisdiction, powers, and  
5 duties as though all applicable terms and provisions of the  
6 Federal Trade Commission Act (15 U.S.C. 41 et seq.)  
7 were incorporated into and made a part of this title. Any  
8 person who violates such rule shall be subject to the pen-  
9 alties and entitled to the privileges and immunities pro-  
10 vided in the Federal Trade Commission Act in the same  
11 manner, by the same means, and with the same jurisdic-  
12 tion, power, and duties as though all applicable terms and  
13 provisions of the Federal Trade Commission Act were in-  
14 corporated into and made a part of this title.

15 **SEC. 5. DEFINITIONS.**

16       For purposes of this Act:

17           (1) COMMISSION.—The term “Commission”  
18 means the Federal Trade Commission.

19           (2) COMMERCIAL PURPOSES.—An electronic  
20 mailbox is provided “for commercial purposes” re-  
21 gardless of whether the provider solicits or receives  
22 a subscription payment from the subscriber, if the  
23 provider receive any consideration, directly or indi-  
24 rectly, for the provision of electronic mail services.

1           (3) ATTORNEY GENERAL.—The term “attorney  
2       general” means the chief legal officer of a State.

3           (4) STATE.—The term “State” means any  
4       State of the United States, the District of Columbia,  
5       the Commonwealth of Puerto Rico, and any territory  
6       or possession of the United States.

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